UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEBRA ROTHENBERG, Plaintiff, - against - AMERICAN BROADCASTING COMPANIES, INC., Defendant.	Docket No. ________________ JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Debra Rothenberg ("Rothenberg" or "Plaintiff"), by and through her undersigned counsel, as and for her Complaint against Defendant American Broadcasting Companies, Inc. ("ABC" or "Defendant") hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant's unauthorized reproduction and public display of a copyrighted photograph of legendary American singer and songwriter Bruce Springsteen, owned and registered by Rothenberg, a New York City based photojournalist. Accordingly, Rothenberg seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq*.

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq*. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Rothenberg is an award-winning professional photojournalist in the business of licensing her photographs to online, print, and television stations for a fee, having a usual place of business at 550 Riverside Drive, #32, New York, New York 10027. Rothenberg's photographs have been exhibited worldwide in galleries and her photo book, *Bruce Springsteen in Focus 1980-2012,* was #2 on the Amazon Best Seller List.

6. Upon information and belief, ABC is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 77 West 66th Street, New York, New York 10023. Upon information and belief, ABC is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, ABC has owned and operated three websites at the URL's: www.abc7.com, www.6abc.com, and www.abc13.com (the "Websites").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. On September 9, 2016, Rothenberg photographed music legend Bruce Springsteen in concert in Philadelphia (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Rothenberg first published the photograph on September 9, 2016.

9. Rothenberg is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph has a pending United States Copyright application number of 1-4131479436. See Exhibit B.

11. The fee to the Copyright Office was paid and the Photograph was submitted and deposited with the Copyright Office.

B. Defendant's Infringing Activities

12. Upon information and belief, on or about September 14, 2016, ABC ran two articles on two of the Websites entitled *'COLLEGE KID' STEALS THE SHOW AT BRUCE SPRINGSTEEN CONCERT IN PHILADELPHIA*. See http://6abc.com/entertainment/college-kid-steals-the-show-at-springsteens-philly-concert/1510358/ and http://abc13.com/entertainment/aggie-steals-the-show-at-springsteen-concert/1511362/. Upon information and belief, on or about September 14, 2016, ABC ran another article on one of the Websites entitled *STUDENT STEALS SHOW AT PHILADELPHIA BRUCE SPRINGSTEEN CONCERT*. See http://abc7ny.com/entertainment/student-steals-show-at-philly-bruce-springsteen-concert/1511089/. The articles prominently featured the Photograph. A true and correct copy of the articles are attached hereto as Exhibit C.

13. The articles were written by a staff web producer of ABC.

14. The Photograph appears on ABC's servers.

15. ABC did not license the Photograph from Plaintiff for its articles, nor did ABC have Plaintiff's permission or consent to publish the Photograph on its Websites.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST ABC)
(17 U.S.C. §§ 106, 501)

16. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-15 above.

17. ABC infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Websites. ABC is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

18. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

19. Upon information and belief, the foregoing acts of infringement by ABC have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

20. As a direct and proximate cause of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover her damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

21. Alternatively, Plaintiff is entitled to statutory damages up to $150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

22. Plaintiff further is entitled to recover her attorney's fees and full costs pursuant to 17 U.S.C. § 505.

23. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant ABC be adjudged to have infringed upon Plaintiff's copyright in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to $150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;

3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded her costs, expenses and attorney's fees pursuant to 17 U.S.C. § 505;

5. That Plaintiff be awarded pre-judgment interest; and

6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
May 4, 2017

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